

ACCESS TO JUSTICE COMMISSION
STANDING COMMITTEE ON SELF-REPRESENTED LITIGANTS

Self-Represented Litigants Data Collection Project

First Phase: A View from Court-side

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*A Report by the Montana Supreme Court Access to Justice Commission's
Standing Committee on Self-Represented Litigants*

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EXECUTIVE SUMMARY

The Montana Supreme Court Access to Justice Commission's Standing Committee on Self-Represented Litigants (the Committee) completed Phase 1 of a data collection project on self-represented litigants.

The Standing Committee on Self-Represented Litigants identified a three-phase data collection project.

- **First Phase:** Data collection from those in Montana's court system who are most likely to encounter self-represented litigants (SRLs): judges and clerks of court. The Committee developed, administered, and analyzed the questionnaires without the assistance of outside professionals or added cost. The Committee considers the data to be reliable, but intended as a contextual marker for use by the Access to Justice Commission, its committees and partners. The qualitative data collected during the process should be considered along with available SRL quantitative data collected by the Office of the Court Administrator.
- **Second Phase:** Data collection from practitioners on their experiences with self-represented litigants. The Committee is working with local bar associations to discuss SRLs from the unique perspective of practitioners.
- **Third Phase:** The third phase is to collect data from self-represented litigants themselves. The Committee will ask SRLs their needs and experiences as well as outcomes when navigating the court system.

The Committee sent three different questionnaires to four categories within the judiciary: District Court Judges, Courts of Limited Jurisdiction Judges, Clerks of District Court, and Courts of Limited Jurisdiction Clerks. Although these questionnaires were completed anonymously, the separate data collection allowed for analysis by judicial position.

Notable quotes:

"The court system has yet to respond in a uniform manner in addressing the reality of the difference in these cases from those on which the system was founded."

"The biggest challenge for SRL's is to navigate through a system that is highly technical in nature and design, so much so that an attorney must study for years and obtain higher degrees of education than most other professions, must pass tests to practice law and then must continue to maintain education throughout the lawyers career in order to practice the same kind of law that the SRL is attempting in their case. It is the equivalent of asking a patient to perform their own surgery without instruments or anesthesia."

District Court Judges and Clerks of District Court reported an increase in the percentage of self-represented litigants. Traditionally individuals appearing in COLJ are self-represented and COLJ Judges and Clerks reported no increase in the percentage of self-represented litigants.

District and COLJ judges reported orders of protection as the most common case type where SRL appear. Clerks of District Court reported an increase in the types of cases where SRLs appear, the complexity of the cases, and a change in the demographics of the SRL. Clerks of District Court report family law cases as the most common type of SRL case.

Judges raised concerns that:

- SRLs consume large amounts of judicial/court time
- SRLs allow cases to languish due to inattention (a key court performance measure is the speed a judge is able to dispose of their case load)

- Ethical concern by needing to give too much assistance to SRL and how to balance the need to resolve a case with a SRL and represented party
- Perceived unjust outcome due to SRL's ability to present their case leaves the individual with poor view of judicial/court system.

Clerks raised concerns that:

- Crossing the line between giving legal information and not legal advice
- Dealing with the SRL frustration when the litigant believes they are not getting the answer they need
- SRLs correctly completing the forms/expectations the clerk can complete the forms
- SRLs lack knowledge of the court system
- SRLs fail to read or follow instructions
- SRLs are time consuming

All court report an increase in the use of forms developed and approved in Montana, but, the SRL might not complete the form appropriately.

District Court Judges recommend a SRL facilitator as the most helpful SRL service. COLJ Judges and Clerks, and Clerks of District Court recommended a toll-free helpline would be most beneficial. The vast majority of judges reported better links to online resources, brochures, or videos to explain procedure and court etiquette would be helpful to SRLs. The Clerks of District Court also recommend the continued development of approved forms.

The Committee will utilize this data to develop strategies for improving access to justice for all Montanans.

CONCLUSIONS AND RECOMMENDATIONS

The Montana Supreme Court Access to Justice Commission Standing Committee on Self-Represented Litigants (SRL) surveyed 136 District Court and Court of Limited Jurisdiction (COLJ) judges and 128 Clerks of Court representing the various district courts and courts of limited jurisdiction.

The surveys revealed the following major observations and their attendant conclusions and the Standing Committee on Self-Represented Litigants provides its recommendations:

Observation 1: The percentage of SRLs in civil cases is increasing in our district courts but not in our courts of limited jurisdiction.

Conclusion: Historically, most litigants in COLJ were not represented by lawyers. Although the number of filed cases has increased in COLJ, the percentage of SRLs has not. Historically, in district courts the majority of litigants had a lawyer. Now, many litigants are appearing in increasingly complex cases without a lawyer. Litigants with limited financial means have increased and the availability of affordable legal services has decreased.

Recommendation: Focus on developing resources and strategies in both the district courts and COLJ that specifically address the unique processes of each to assist the SRL and facilitates court efficiency.

Observation 2: The majority of respondents generally referred the SRL to a Self-Help Law Center, online resources, or Montana Legal Services Association. A SRL was less likely to be referred to non-law related social services.

Conclusion: Responders are familiar with well-established institutions and resources and believe them to be of benefit.

Recommendation: Continue growth of Self-Help Law Centers and augment online resources and increase awareness of attendant social services.

Observation 3: The majority of responders see an increase in the use of forms developed and approved in Montana.

Conclusion: Referral to Self-Help Law Centers and online resources was high among responders resulting in an increase in use of the forms available from those resources.

Recommendation: Revision and development of user-friendly forms and instructions that accommodate the needs of the self-represented and facilitate court efficiency.

Observation 4: The majority of responders believed improved self-representation references including online resources and links and written materials would be most beneficial in dealing with the self-represented. However, district court judges believed an on-site self-represented facilitator would be most beneficial.

Conclusion: There is a commonality among responders in expanding and improving online and written materials with benefits of other resources varying among courts and staff.

Recommendation: To focus attention on efforts that represent the greatest impact on the most self-represented and the courts that serve them beginning with attention to reliable, thorough, online resources and written educational materials. *Of note: The Court Help Program which facilitates the Self Help Center will draw from the same online resources, educational materials, and from to assist patrons who visit the centers.*

Observation 5: The majority of responders report a major challenge to be providing legal information without crossing the line into legal advice when the self-represented requires legal counsel.

Conclusion: Self-represented do not understand the limits of the court and staff and court and staff may not understand the ability to provide a broader range of information and assistance without constituting legal advice or breaking legal neutrality.

Recommendation: The courts should develop and promulgate written protocols for judges and staff that explain their duties and limitations in managing the self-represented.

Observation 6: The majority of responders in district court believe cases are becoming more or somewhat more complex while courts of limited jurisdiction do not.

Conclusion: Courts of limited jurisdiction were designed to address legal issues that are typically less complex, which effectively minimizes those types of cases. The reasons for an increase in complexity of district court cases could be multiple.

Recommendation: Conduct a survey of the self-represented to include information about case type and level of difficulty. Analyze court data to extract case anatomies and determine if early intervention and assistance may reduce complications impacting resolution.

Observation 7: The most common self-represented case type collectively among all responders was order of protection. District courts most commonly saw self-representation in family law while courts of limited jurisdictions' most common case type after order of protection to be small claims and landlord-tenant.

Conclusion: All courts would benefit from the development of information, resources and referral mechanisms for survivors and training and information among the judiciary about domestic abuse. District courts would benefit from domestic relations specific resources while courts of limited jurisdiction would additionally benefit from development of resources concerning landlord-tenant and small claims.

Recommendation: Development of judicial materials and training on domestic violence together with provision of information about available resources to survivors of domestic violence. Focus on development of materials, resources, and revised forms for the most common case type.

SUMMARY OF RECOMMENDATIONS:

- Focus on developing resources and strategies in both the district courts and COLJ that specifically address the unique processes of each to assist the SRL and facilitates court efficiency.
- Continue growth of Self-Help Law Centers and augment online resources and increase awareness of attendant social services.
- Revision and development of user-friendly forms and instructions that accommodate the needs of the self-represented and facilitate court efficiency.
- To focus attention on efforts that represent the greatest impact on the most self-represented and the courts that serve them beginning with attention to reliable, thorough, online resources and written educational materials.
- The courts should develop and promulgate written protocols for judges and staff that explain their duties and limitations in managing the self-represented.
- Conduct a survey of the self-represented to include information about case type and level of difficulty. Analyze court data to extract case anatomies and determine if early intervention and assistance may reduce complications impacting resolution.
- Development of judicial materials and training on domestic violence together with provision of information about available resources to survivors of domestic violence. Focus on development of materials, resources, and revised forms for the most common case type.

METHODOLOGY

DEVELOPMENT OF THE QUESTIONNAIRES

The Committee developed the questionnaires to help identify areas to improve court efficiency and understanding of SRL issues, and to develop new or maximize use of available resources relating to SRLs. Questionnaires include core questions (definitive response, yes/no) as well as opened-ended questions. The open-ended questions focused on the responder's specific experience with SRLs and sought suggestion to improve the interaction of the SRL and the court.

DATA COLLECTION

The Committee disbursed letters and questionnaires electronically as follows:

- Montana District Court judges
- Montana Court of Limited Jurisdiction (COLJ) judges¹
- Montana Clerks of District Court
- Montana COLJ Court Clerks

Responders submitted their answers anonymously because the collected data was qualitative and includes individual insights, attitudes and perceptions. Response rates were significant, demonstrating considerable interest by judges and clerks in issues surrounding SRLs. Data from each group was compiled and analyzed separately.

Montana courts vary both geographically and demographically resulting in different SRL populations. The qualitative data collected demonstrates trends and observations across the state. This report is an exercise in observational study generated from about 230 court-side responders. Specific quantitative data is limited to the number of responders and the rate they responded to a particular question.

RESPONSE RATES

All groups were sent the questionnaire by list serve and email. The COLJ court clerks' turnover rate makes it difficult to maintain an up-to-date email list. It is unclear whether all COLJ clerks are members of the listserve and whether all clerks received the questionnaire. List serves can substantially reduce likelihood recipients will read and respond to posts.

- 95.5 percent of District Court judges responded to the questionnaire
- 83 percent of COLJ judges responded to the questionnaire
- 64 percent of DC Clerks of Court responded to the questionnaire
- 39 percent of COLJ Clerks responded to the survey²

¹ COLJ are comprised of five different court types: City Courts, City Courts of Record, Justice Courts, Justice Courts of Record, and Municipal Courts.

² The percentage is based on an approximation of current COLJ Clerks of Court

MAJOR STATISTICAL AND OBSERVATIONAL FINDINGS

JUDICIAL RESPONSES

MAJOR STATISTICAL FINDINGS SUMMARIZED

- Incidence of self-representation has increased in DC but not in COLJ.³
- Most common SRL case type collectively both DC and COLJ judges is an Order of Protection. Remainder of case incidence categories is impacted greatly by court type.
- DC judges are most likely to refer a SRL to a Self-Help Law Center (SHLC) and COLJ judges are most likely to refer a SRL to Montana Legal Services Association (MLSA).
- Most DC judges report a change in demographics or circumstances leading to self-representation while COLJ judges do not.⁴
- Most DC judges have seen an increase in attorneys assisting otherwise self-represented litigants. A third report an increase limited task representation appearances. COLJ judges observe minimal increase in attorney assistance to otherwise SRLs.
- All courts report an increase in the use of forms developed and approved in Montana, with the highest incidence of increase among DCs.
- DC judges report a self-help facilitator would be the most helpful in dealing with SRLs while the majority COLJ judges thought a facilitator would not be helpful at all.
- COLJ judges were most likely to report a toll-free helpline would be most helpful to SRL.
- The vast majority of all judges report better links to online resources and brochures or videos explaining procedure and court etiquette would be helpful to SRL.

MAJOR OBSERVATIONAL FINDINGS (OPEN-ENDED RESPONSES)

- The most common themes arising from all judicial sub-groups concerning the **lack of representation impact on SRL** included (in approximate order of frequency)
 - Ineffectiveness or poor result due to inability to present proper evidence (overwhelmingly the most stated impact)
 - Inability to separate the emotional aspects from the legal issues (use the court and pleadings to punish adverse)
 - Not informed of rights so do not seek proper relief (unrealistic expectations or claims with no legal relief)
 - Delays in cases due to procedural insufficiencies or inadequate forms
 - Impact on represented adverse (additional time and cost required to sort through SRL issues)
 - Do not know how to defend a case, and therefore do not (default or plead guilty)
- Judges in all judicial sub-groups responded similarly to the question regarding most common **primary concerns about SRLs their courts**, suggesting that judges view the impacts of no representation for SRLs are the same problems that cause the courts concern. A few unique themes emerged as well:
 - Consume large amounts of judicial/court time

³ Note: This question and its responses relate to an increase in those who self-represent versus the volume of case filings/litigants generally in each court.

⁴ Data suggests that those seeking relief from COLJ have traditionally been self-represented regardless of demographics.

- Languishing cases due to inattention (often courts are judged on the speed in disposing of case load)
- Concerned about violating judicial code of conduct by providing too much assistance to SRL (balancing leniency toward SRL and represented party)
- Perceived unjust outcome due to lack of ability to present case leaves litigants with poor view of judicial/court system

Notable Quote: “The court system has yet to respond in a uniform manner in addressing the reality of the difference in these cases from those on which the system was founded.”

- Judges in all judicial sub-groups offered similar themes to those in the previous two questions regarding the **biggest challenge for judges and the courts regarding SRLs**. Because the question targeted the “biggest challenge”, listed are the most common responses in approximate rank order.
 - Managing court time (SRLs take substantial time)
 - Judicial neutrality/assisting without unfair benefit (particularly during hearings and trial)
 - Diffusing emotional issues between litigants
 - Patience

Notable Quote: “Changing the prevailing view among those who serve the public and the bar that the SRL is problem to be dealt with according to the rules. The concept of access has changed along with the reality of who the customer is in the court system. Getting those involved to accept the changes upon us and respond positively in a progressive manner is the biggest challenge of our day.”

- Judges in all judicial sub-groups overwhelmingly and equally perceive the **biggest challenge for SRLs in courts** is simply a lack of understanding of the law and legal process. Because the question targeted the “biggest challenge”, listed are the most common responses in approximate rank order.
 - Presenting evidence
 - What to do in a hearing or trial
 - Asking for the right relief (“getting the best deal”)
 - Understanding limits of a court system (in resolving otherwise personal /emotional issues)
 - Fear of the court system
 - Finding or getting necessary help

Notable Quote: “The biggest challenge for SRL's is to navigate through a system that is highly technical in nature and design, so much so that an attorney must study for years and obtain higher degrees of education than most other professions, must pass tests to practice law and then must continue to maintain education throughout the lawyers career in order to practice the same kind of law that the SRL is attempting in their case. It is the equivalent of asking a patient to perform their own surgery without instruments or anesthesia.”

CLERK OF DISTRICT COURT RESPONSES

MAJOR STATISTICAL FINDINGS

- DC clerks report increase in self-representation.⁵
- Almost all DC clerks believe the **complexity of SRL cases or circumstances surrounding those cases** are substantially or somewhat more complex.
- DC clerks report no increase in attorney assistance to otherwise SRLs generally, but 15 percent report increase in attorneys appearing through limited task representation.
- DC clerks report the most common SRL case type dissolutions and parenting plans (almost 100 percent collectively), followed by Name Change, and Modification of parenting plan or child support. Probate and estate polled ahead of Orders of Protection (53 percent).
- Most DC clerks provide written materials or forms to SRL. The vast majority indicate providing district-specific “packets” for dissolution or printing forms from the state law library for SRL.
- Most DC clerks report having no county-specific forms, special procedures, programs or court services directed to or required of SRLs, but those that do generally provide dissolution packets or fee waiver .
- DC clerks are most likely to refer SRLs to an online resources or the Montana Law Library followed closely by a Self-Help Law Center.
- Most DC clerks and staff spend between less than 20 percent of their time answering SRL questions during an average work day.
- Most of DC clerks report between 5-20 percent of SRLs require between 10 and 20 minutes of assistance per visit.
- The vast majority of DC clerks report a change in demographics or circumstances leading to self-representation.
- The vast majority of DC clerks report an increase in the use of forms developed and approved in Montana and report the forms help the SRL and the court.
- Most DC Clerks report brochures explaining court procedures and etiquette and approved forms SRL must use would be most helpful in dealing with SRLs.
- DC Clerks collectively report the most helpful SRL service would be a toll-free hotline followed closely by brochures and approved forms.

MAJOR OBSERVATIONAL FINDINGS (OPEN-ENDED RESPONSES)

- The most common themes arising from DC clerks the regarding **primary concerns about SRLs** (in approximate order of frequency):
 - Giving legal information and not legal advice – SRLs need legal advice
 - Frustration/anger from litigants when they believe they are not getting the answers to legal questions
 - Completing forms correctly/expectation Clerk can complete the forms for SRL
 - Failing to read or follow instructions
 - Time consuming
- DC clerks responded similarly to the question regarding **biggest challenge about SRLs their courts**, and overwhelming see the challenge of not giving legal advice or having legal advice available as the biggest challenge.

⁵ Note: This question and its responses relate to an increase in those who self-represent versus the volume of case filings/litigants generally in each court.

COURT OF LIMITED JURISDICTION CLERK OF COURT RESPONSES

MAJOR STATISTICAL FINDINGS

COLJ Clerks report no definitive collective increase or decrease in incidence of SRL (half reported increase and half reported no increase), suggesting geographic location of courts within the state may determine increases.⁶

- COLJ Clerks report no definitive collective increase or decrease in the complexity and circumstances of cases (half report increase and half report no increase).
- Most of COLJ Clerks are not certain if there are more attorneys assisting otherwise SRLs. The category reporting the greatest increase in attorney assistance is document preparation (Justice Court).
- COLJ Clerks collectively most often see SRLs in landlord-tenant/unlawful detainer cases and consumer-debt collection cases.
- Most COLJ Clerks provide written materials to SRLs.
- Most COLJ Clerks do not have special forms, procedures or programs for SRLs
- Most COLJ Clerks refer SRLs to a Self-Help Law Center or online resources/Montana Law Library.
- Most COLJ Clerks/staff spend less than 10 percent of the average day answering SRL questions.
- About half of COLJ Clerks/staff spend ten minutes or less with each SRL, but almost half spend ten to twenty minutes with each SRL.
- Most COLJ Clerks collectively report no increase in use of Montana
- The vast majority of COLJ Clerks collectively report a toll-free helpline would be the most helpful in dealing with SRL and court efficiency, with a majority also reporting a list of state and community resources and brochures as most helpful.

MAJOR OBSERVATIONAL FINDINGS (OPEN-ENDED RESPONSES)

- The most common themes arising from COLJ the regarding **primary concerns about SRLs** (in approximate order of frequency):
 - Giving legal information and not legal advice – SRLs need legal advice
 - Completing forms correctly/expectation Clerk can complete the forms for SRL
 - They are not treated fairly by the court system
 - Knowledge of court processes
 - Time spent
- COLJ Clerks responded similarly to the question regarding **biggest challenge about SRLs their courts**, and overwhelming see the challenge of not giving legal advice or having legal advice available as the biggest challenge.
- Many had added concerns about relieving concerns and fear and challenges with those who cannot read or write
- COLJ Clerks also reveal the added time constraints when there is a small office and no one to assist other than a single employee or two.

⁶ Note: This question and its responses relate to an increase in those who self-represent versus the volume of case filings/litigants generally in each court.

STATISTICAL ITEMIZATION

Percentages are based on those who responded to any particular question and not necessarily on the total number responding to the questionnaire generally. Not all respondents responded to all questions.

JUDICIAL STATISTICAL ITEMIZATION

INCIDENCE OF SRLS

- Almost all DC judges report SRLs have increased measurably over the last two years.
- There was no majority among Justice Court judges if SRLs had increased or decreased
- The majority of City Court judges believe SRLs have not increased in their courts over the last two years.
- 0 percent of Municipal judges believe SRLs have increased in their court, but 29 indicate SRLs have decreased in their court.

ATTORNEY ASSISTANCE

- The majority of judges in all sub-categories are not certain if there are fewer or more otherwise SRLs receiving assistance from attorneys.
- Collectively, about 30 percent of **District Court judges** see an increase in various types of assistance to otherwise SRLs and it is more likely that an attorney will represent a SRL after a case is filed than to withdraw at a later time.
- About 15 percent of justice court judges see an increase in various types of assistance to otherwise SRLs but it is more likely an attorney will file a case and withdraw at a later time than to represent an SRL after the case is filed.
- The majority of **Justice Court judges** are not certain if there are fewer or more attorneys
- **City court judges** report no incidence of attorneys withdrawing during the course of a case, but approximately one-quarter observe cases filed by an SRL that is later represented by an attorney.
- **Municipal judges** report an increase in attorney assistance to an otherwise SRLs. Note: Limited number of municipal judges should be considered when analyzing the impact of this sub-group's data comparatively to the balance of the judicial sub-groups.

CASE TYPE

- 100 percent of responding **District Court judges** indicate most common SRL case type is both Dissolution/separation/annulment and parenting plans/parenting time followed modification of parenting plan or child support (90 percent) and Order of Protection at (88 percent).
- 95 percent of responding **City Court judges** indicates most common SRL case type as Order of Protection, followed by landlord-tenant (32 percent) and small claims (26 percent).
- 90 percent of responding **justice court judges** indicates most common SRL case type as Order of Protection, followed by small claims (77 percent) and landlord-tenant/unlawful detainer (71%).
- 100% of responding **Municipal** judges indicate most common SRL case type as Order of Protection.

REFERRALS⁷

⁷ Note that Self-Help Law Centers limited to specific geographic locations, which impacts the availability of this referral source. In addition, the volume of litigants in varying courts results in much greater numbers by volume than by percentage.

- 79 percent of responding **District Court judges** refers SRLs to a Self-Help Law Center, followed by 47 percent to online resources, 37 percent to Montana Legal Services Association (MLSA) and 34 percent to an organized pro bono program.
- 63 percent of responding **City Court judges** refers SRLs to MLSA and/or online resources/Montana Law Library followed by 53 percent to a Self-Help Law Center.
- 71 percent of responding **Justice Court judges** refers SRLs to MLSA followed by 67 percent to a self-help law center and 42 percent to online resources/Montana Law Library.
- **Municipal judges** are most likely to refer SRLs to a Self-Help Law Center, online resources or a victim witness advocate.

CHANGES IN SRL DEMOGRAPHICS

- 65 percent of **District Court judges** indicate a change in demographics or circumstances leading to self representation (see Quantitative Section for comments and descriptions).
- 96 percent of **City Court judges** indicate no change SRL demographics or circumstances leading to self-representation.
- 74 percent of **Justice Court judges** indicate no change SRL demographics or circumstances leading to self-representation.
- 75 percent of **Municipal judges** indicate no change SRL demographics or circumstances leading to self-representation.

USE OF APPROVED FORMS

- 92 percent of **District Court judges** observe an increase in the use of forms developed and approved in Montana and 66 percent believe the forms help the SRL and the court.
- 78 percent of **City Court judges** observe no change in the use of forms developed and approved in Montana and 86 percent believe the forms help the SRL and the court.
- 60 percent of **Justice Court judges** observed an increase in the use of forms developed and approved in Montana and 78 percent found the forms helpful to the SRL and the court.
- 50 percent of responding **Municipal judges** observed an increase in the use of forms developed and approved in Montana and 100 percent found the forms helpful to the SRL and the court.

MOST HELPFUL TO THE COURT IN DEALING WITH SRLS AND COURT EFFICIENCY

- 69 percent of **District Court judges** indicated an on-site SRL facilitator would be most helpful followed by a sanctioned website with better links, forms, and general information (60 percent) and approved forms that SRLs must use (48 percent). 63 percent thought additional rules of civil procedure would not be helpful.
- 69 percent of **City Court judges** indicated a toll-free helpline would be most helpful followed by a sanctioned website with better links, forms, and general information (63 percent) and brochures explaining court procedures and etiquette (53 percent). 37 percent believed additional rules of civil procedure and an on-site SRL facilitator would not be helpful.
- 84 percent of **Justice Court judges** indicated a toll-free help line would be most helpful followed by brochures explaining court procedures and etiquette (74 percent) and videos explaining court procedures and etiquette (64 percent). 47 percent believed additional rules would not be helpful. 42 percent believe regular clinics or presentations for SRLs would not be helpful.

- 75 percent of **Municipal Court** judges believed brochures explaining court procedures and etiquette would be most helpful followed by a sanctioned website (67 percent) and approved forms SRLs must use and videos explaining court procedures and etiquette (50 percent each).

DISTRICT COURT CLERK STATISTICAL ITEMIZATION

INCIDENCE OF SRLS

- 97 percent of DC Clerks believe SRLs have increased measurably over the last two years.

COMPLEXITY OF CASES

- 95 percent of DC Clerks believe the complexity of SRL cases have increased over the last three years

ATTORNEY ASSISTANCE

- 63 percent of DC clerks do not know if there is an increase in attorneys providing assistance to otherwise SRLs.
- 20 percent of DC Clerks indicate an increase in limited scope appearance.

CASE TYPE

- Near 100 percent of responding DC Clerks indicate most common SRL case type is both Dissolution/separation/annulment and parenting plans/parenting time followed by Name Change (91 percent) and modification of parenting plan or child support (79 percent) and Order of Protection at (88 percent).

WRITTEN MATERIALS

- 66 percent of DC Clerks provide written materials or forms to SRLs.
- Most written materials provided involve pre-developed forms or printing from online sources from Clerk's office when SRL does not have access to a computer

Percentages are based on those who responded to any particular question and not necessarily on the total number responding to the questionnaire generally. Not all judges responded to all questions.

COUNTY-SPECIFIC FORMS, PROCEDURES OR PROGRAMS

- 66 percent of DCs do not have special forms, procedures or programs

REFERRALS⁸

- 75 percent of responding DC Clerks refer SRLs to online resources/Montana Law Library, 70 percent refer to a Self-Help Law Center and 50 percent to MLSA.

PERCENTAGE OF TIME SENT ANSWERING SRL QUESTIONS (NON-PROCEDURAL OR FILING)

- 20 percent of responding DC Clerks indicate spending less than 5 percent
- 36 percent of responding DC Clerks indicate spending 5-10 percent
- 24 percent of responding DC Clerks indicate spending 10-20 percent
- 12 percent of responding DC Clerks indicate spending 20-30 percent

AMOUNT OF TIME SPENT WITH EACH SRL

- 36 percent of responding DC Clerks indicate spending 6-10 minutes with each SRL

⁸ Note that Self-Help Law Centers limited to specific geographic locations, which impacts the availability of this referral source. In addition, the volume of litigants in varying courts results in much greater numbers by volume than by percentage.

- 24 percent of responding DC Clerks indicate spending 11-15 minutes with each SRL
- 16 percent of responding DC Clerks indicate spending 15-20 minutes with each SRL
- 20 percent of responding DC Clerks indicate spending 21-40 minutes with each SRL
- percent of responding DC Clerks indicate spending more than 40 minutes with each SRL

SRLS REQUIRING EXTENDED TIME

- 33 percent of responding DC Clerks believe 5-10 percent of SRLs require more than 10 but less than 20 minutes of assistance and 25 percent believe 10-20 percent requires this same amount of time.
- 39 percent of responding DC Clerks report less than 5 percent of SRLs requires more than 20 minutes of assistance and 13 percent report 5-10 percent of SRLs need this same amount of time.
- Collectively, 35 percent report more than 30 percent of SRLs require more than 20 minutes of assistance.

CHANGES IN SRL DEMOGRAPHICS

- 64 percent of reporting DC Clerks indicate a change in demographics or circumstances leading to self-representation (see Quantitative Section for comments and descriptions).

USE OF APPROVED FORMS

- 79 percent of responding DC Clerks observe an increase in the use of forms developed and approved in Montana and 66 percent believe the forms help the SRL and the court.
- 78 percent of responding DC Clerks believe the statewide forms are helpful to the SRL and the Court.
- 16 percent believe the forms help the SRL but not the court.

MOST HELPFUL TO THE DC CLERK/OFFICE IN DEALING WITH SRL AND COURT EFFICIENCY

- 75 percent of responding DC Clerks rank a toll-free helpline as most helpful, followed by brochures explaining court procedures (72 percent) and approved forms SRL must use (69 percent).

COURT OF LIMITED JURISDICTION CLERK STATISTICAL ITEMIZATION

INCIDENCE OF SRLS

- 97 percent of DC Clerks believe SRLs have increased measurably over the last two years.

COMPLEXITY OF CASES

- 95 percent of DC Clerks believe the complexity of SRL cases have increased over the last three years

ATTORNEY ASSISTANCE

- 63 percent of DC clerks do not know if there is an increase in attorneys providing assistance to otherwise SRLs.
- 20 percent of DC Clerks indicate an increase in limited scope appearance.

CASE TYPE

- Near 100 percent of responding DC Clerks indicate most common SRL case type is both Dissolution/separation/annulment and parenting plans/parenting time followed by Name Change (91 percent) and modification of parenting plan or child support (79 percent) and Order of Protection at (88 percent).

WRITTEN MATERIALS

- 66 percent of DC Clerks provide written materials or forms to SRLs.

- Most written materials provided involve pre-developed forms or printing from online sources from Clerk’s office when SRL does not have access to a computer

Percentages are based on those who responded to any particular question and not necessarily on the total number responding to the questionnaire generally. Not all judges responded to all questions.

COUNTY-SPECIFIC FORMS, PROCEDURES OR PROGRAMS

- 66 percent of DCs do not have special forms, procedures or programs

REFERRALS⁹

- 75 percent of responding DC Clerks refer SRLs to online resources/Montana Law Library, 70 percent refer to a Self-Help Law Center and 50 percent to MLSA.

PERCENTAGE OF TIME SENT ANSWERING SRL QUESTIONS (NON-PROCEDURAL OR FILING)

- 20 percent of responding DC Clerks indicate spending less than 5 percent
- 36 percent of responding DC Clerks indicate spending 5-10 percent
- 24 percent of responding DC Clerks indicate spending 10-20 percent
- 12 percent of responding DC Clerks indicate spending 20-30 percent

AMOUNT OF TIME SPENT WITH EACH SRL

- 36 percent of responding DC Clerks indicate spending 6-10 minutes with each SRL
- 24 percent of responding DC Clerks indicate spending 11-15 minutes with each SRL
- 16 percent of responding DC Clerks indicate spending 15-20 minutes with each SRL
- 20 percent of responding DC Clerks indicate spending 21-40 minutes with each SRL
- percent of responding DC Clerks indicate spending more than 40 minutes with each SRL

SRLS REQUIRING EXTENDED TIME

- 33 percent of responding DC Clerks believe 5-10 percent of SRLs require more than 10 but less than 20 minutes of assistance and 25 percent believe 10-20 percent requires this same amount of time.
- 39 percent of responding DC Clerks report less than 5 percent of SRLs requires more than 20 minutes of assistance and 13 percent report 5-10 percent of SRLs need this same amount of time.
- Collectively, 35 percent report more than 30 percent of SRLs require more than 20 minutes of assistance.

CHANGES IN SRL DEMOGRAPHICS

- 64 percent of reporting DC Clerks indicate a change in demographics or circumstances leading to self representation (see Quantitative Section for comments and descriptions).

USE OF APPROVED FORMS

- 79 percent of responding DC Clerks observe an increase in the use of forms developed and approved in Montana and 66 percent believe the forms help the SRL and the court.
- 78 percent of responding DC Clerks believe the statewide forms are helpful to the SRL and the Court.
- 16 percent believe the forms help the SRL but not the court.

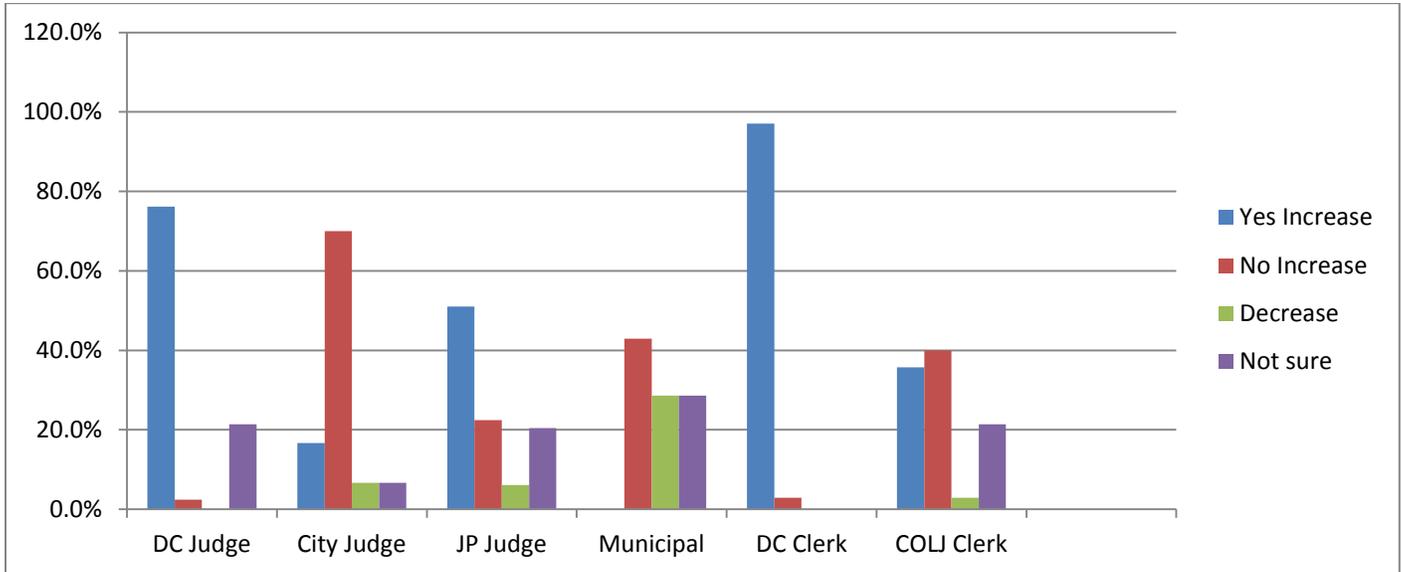
⁹ Note that Self-Help Law Centers limited to specific geographic locations, which impacts the availability of this referral source. In addition, the volume of litigants in varying courts results in much greater numbers by volume than by percentage.

MOST HELPFUL TO THE DC CLERK/OFFICE IN DEALING WITH SRL AND COURT EFFICIENCY

- 75 percent of responding DC Clerks rank a toll-free helpline as most helpful, followed by brochures explaining court procedures (72 percent) and approved forms SRL must use (69 percent).

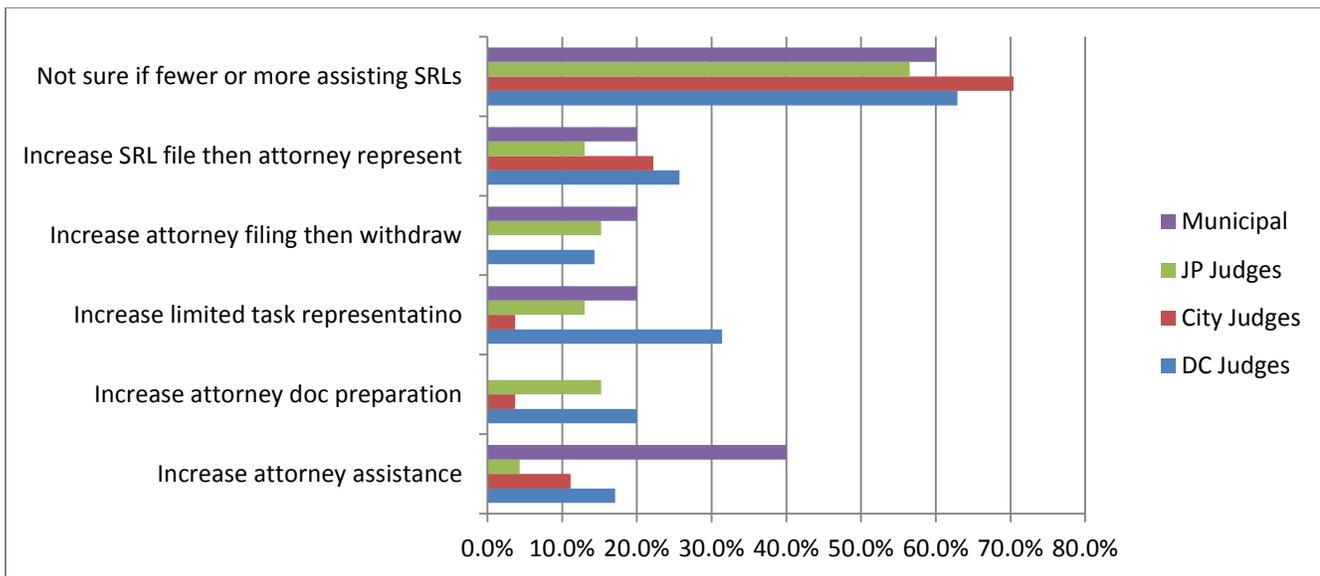
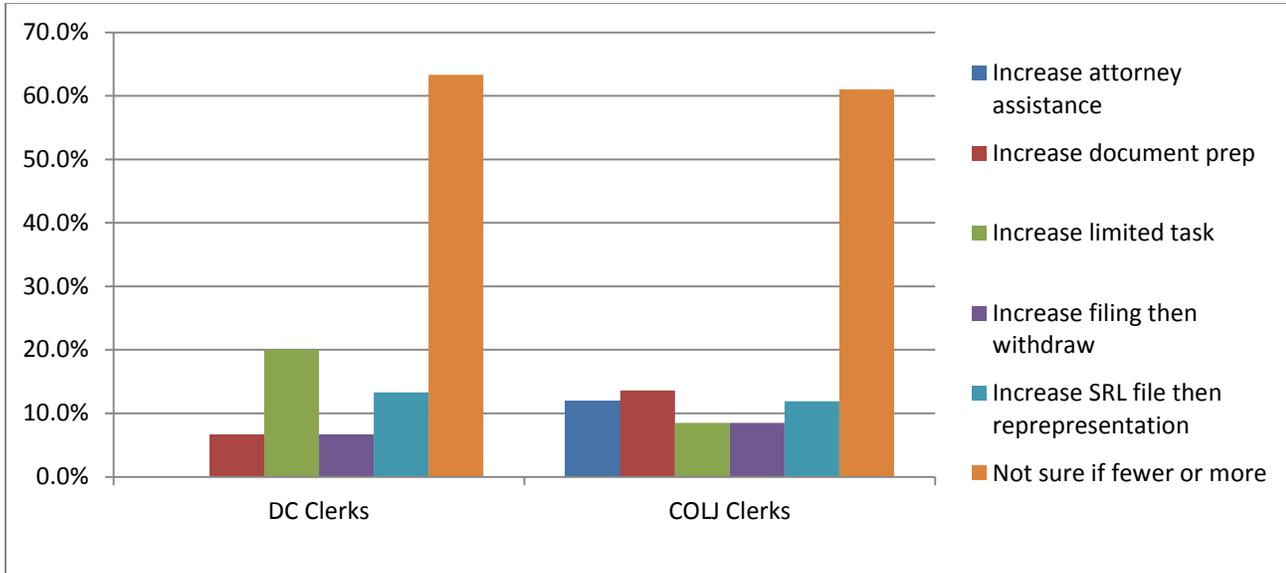
COMPARATIVE CHARTS

IN THE LAST TWO YEARS, HAVE YOU SEEN AN INCREASE IN THE NUMBER OF SELF-REPRESENTED LITIGANTS (SRLs) IN OUR COURT SYSTEM (OR COUNTY)?



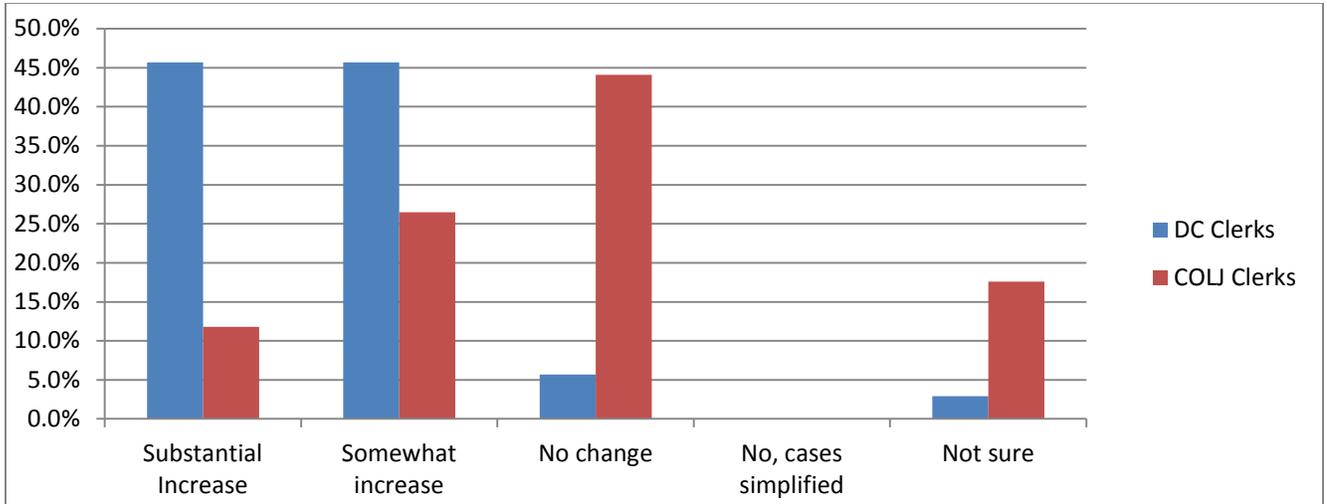
	DC Judge	City Judge	JP Judge	Municipal Judge	DC Clerk	COLJ Clerk
Yes Increase	76.2%	16.7%	51.0%	0.0%	97.1%	35.7%
No Increase	2.4%	70.0%	22.4%	42.9%	2.9%	40.0%
Decrease	0.0%	6.7%	6.1%	28.6%	0.0%	2.9%
Not Sure	21.4%	6.7%	20.4%	28.6%	0.0%	21.4%

WHAT ARE YOUR OBSERVATIONS REGARDING SRLS RECEIVING ASSISTANCE FROM ATTORNEYS DURING THE COURSE OF THE CASE? (MARK ALL THAT APPLY)

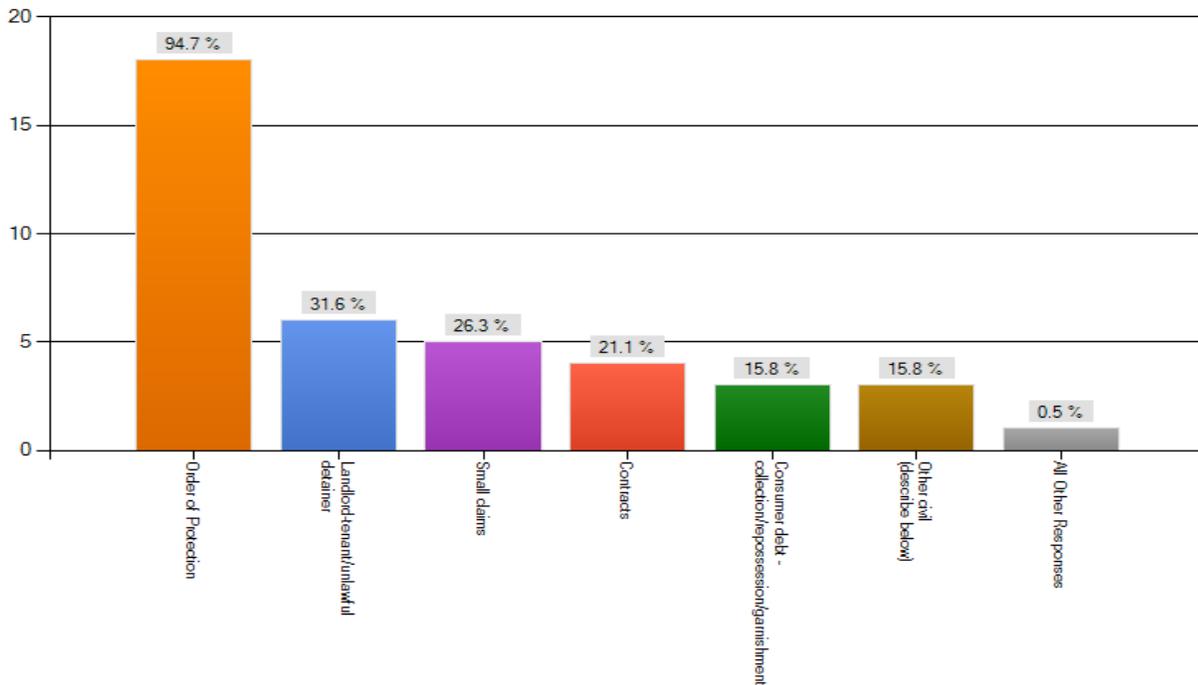


	DC Judge	City Judge	JP Judge	Municipal	DC Clerk	COLJ Clerk
Increase attorney Assistance	17.1%	11.1%	4.3%	40.0%	0.0%	11.9%
Increase attorney doc preparation	20%	3.7%	15.2%	0.0%	6.7%	13.6%
Increase limited task representation	31.4%	3.7%	13.0%	20.0%	20.0%	8.5%
Increase attorney filing then withdraw	14.3%	0.0%	15.2%	20.0%	6.7%	8.5%
Increase SRL file then attorney rep	25.7%	22.2%	13.0%	20.0%	13.3%	11.9%
Not sure if fewer or more attorneys assisting SRLs	62.9%	70.4%	56.5%	60.0%	63.3%	61.0%

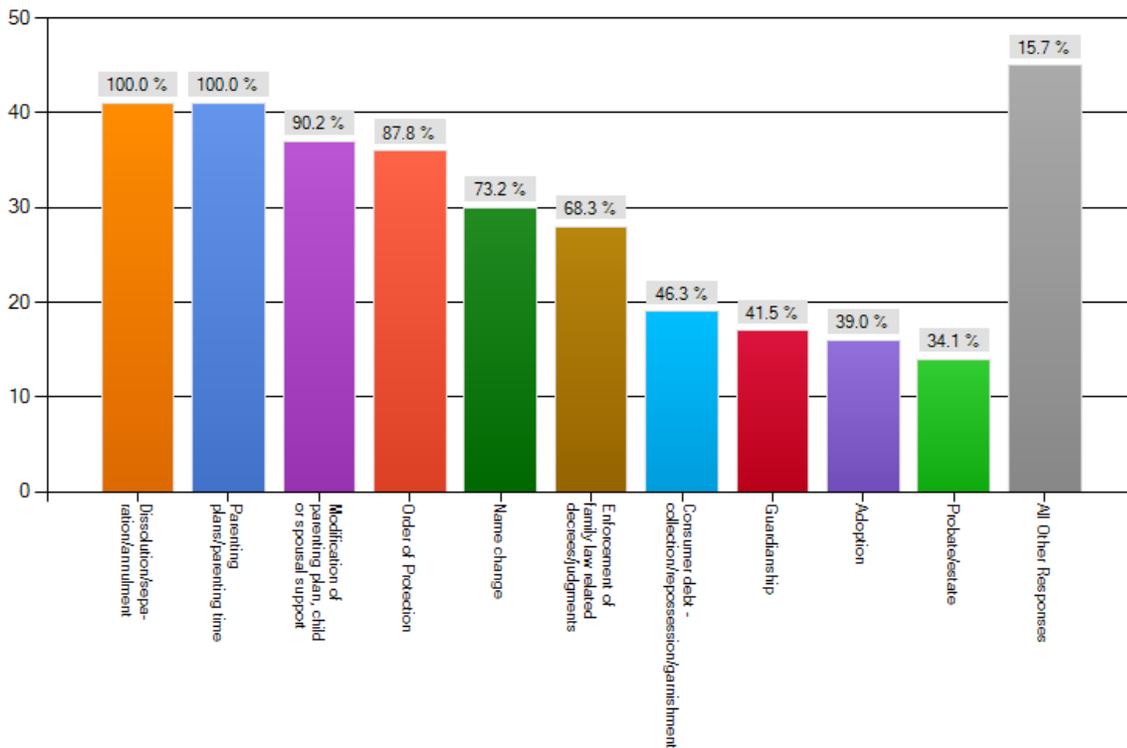
HAS THE COMPLEXITY OF SRL CASES AND CIRCUMSTANCES SURROUNDING THOSE CASES INCREASED OVER THE LAST THREE YEARS?



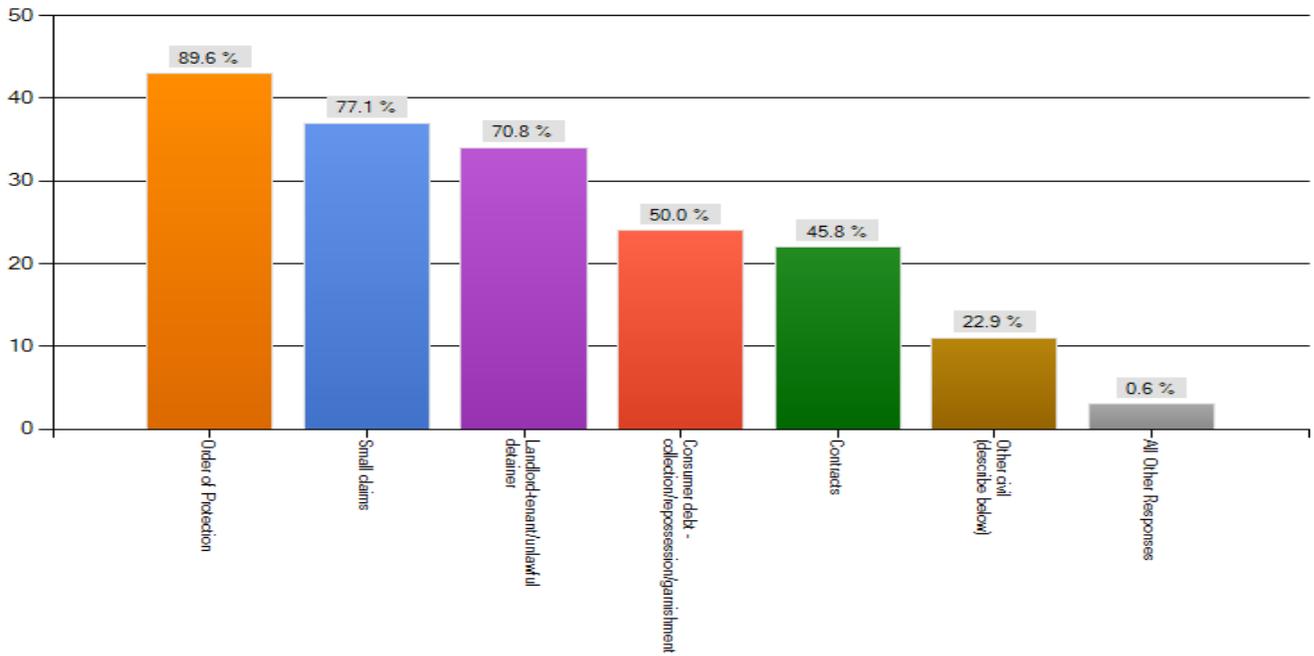
City Court Case Type



District Court Case Type



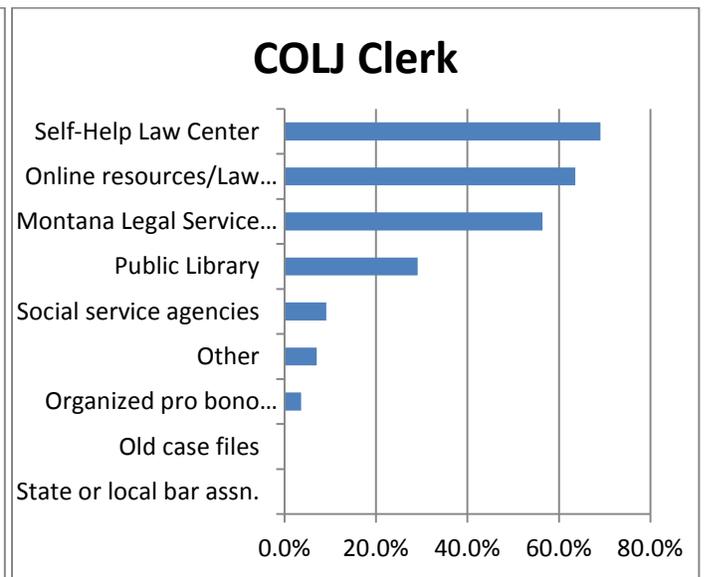
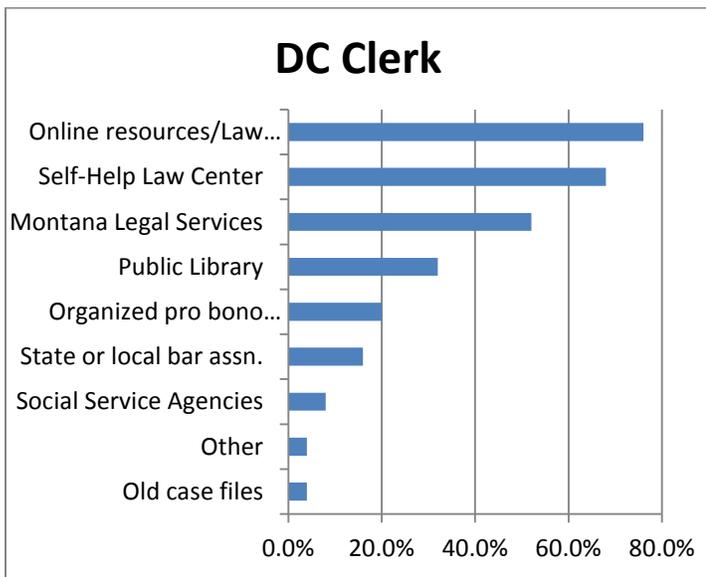
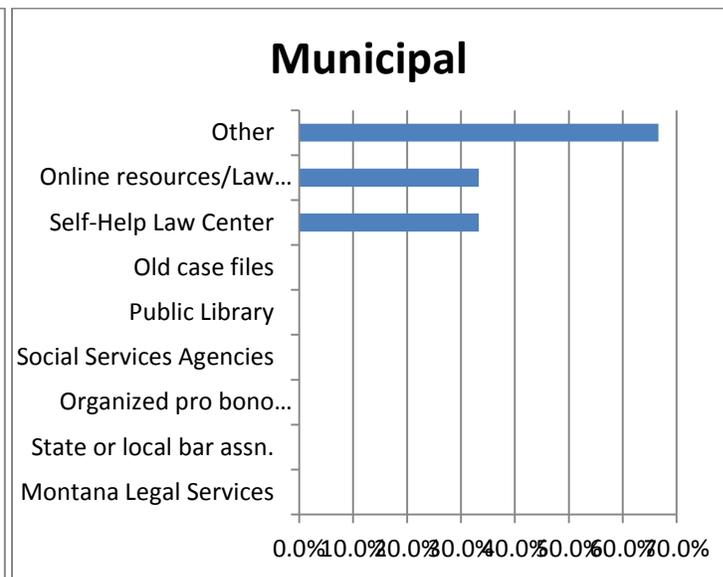
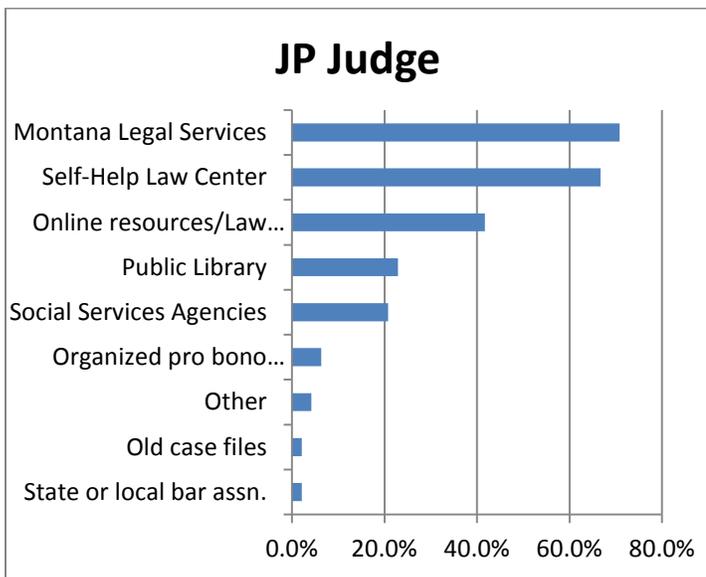
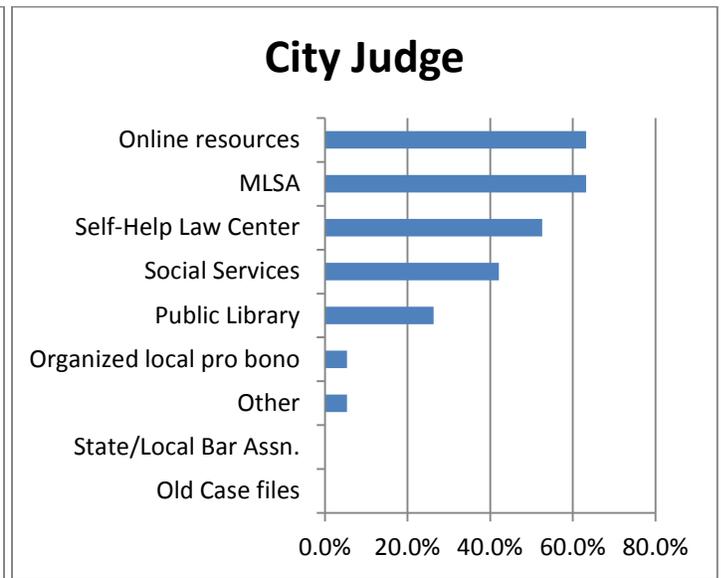
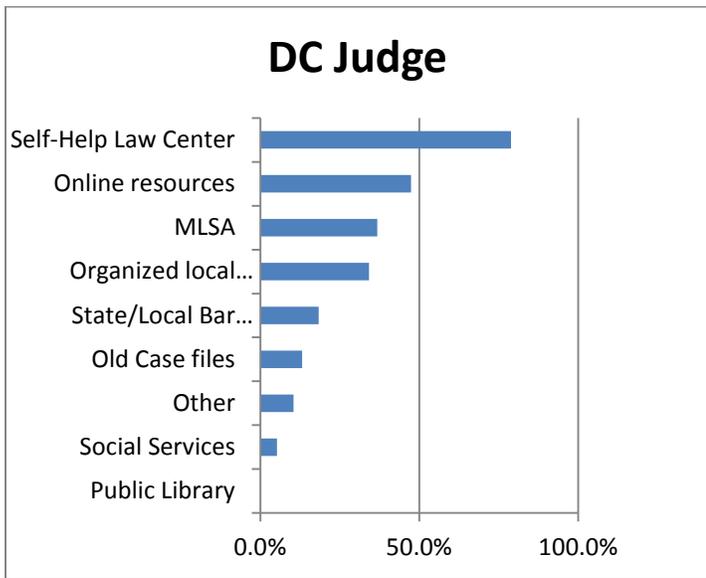
Justice Court Case Type



Case Type Table

	DC Judge	City	JP Judge	Municipal	DC Clerk	COLJ Clerk
Dissolution/separation/annulment	100%	0.0%	0.0%	0.0%	100%	XX
Parenting	100%	0.0%	0.0%	0.0%	97.0%	XX
Petitions to establish paternity	19.5%	0.0%	0.0%	0.0%	21.2%	XX
Modify of parenting/spousal support	90.2%	0.0%	0.0%	0.0%	78.8%	XX
Enforcement of DR decrees/judgments	68.3%	5.3%	0.0%	0.0%	33.3%	XX
Adoption	39.0%	0.0%	0.0%	0.0%	24.2%	XX
Other family	29.3%	0.0%	0.0%	0.0%	6.1%	XX
Order of protection	87.8%	94.7%	91.5%	100%	54.5%	XX
Name change	73.2%	0.0%	0.0%	0.0%	90.9%	XX
Guardianship	41.5%	0.0%	0.0%	0.0%	27.3%	XX
Probate/estate	34.1%	0.0%	0.0%	0.0%	54.5%	XX
Landlord-tenant/unlawful detainer	12.2%	31.6%	70.2%	0.0%	0.0%	XX
Home ownership/real property	12.2%	0.0%	0.0%	0.0%	6.1%	XX
Consumer debt-collection	46.3%	15.8%	51.1%	0.0%	18.2%	XX
Small Claims	14.6%	26.3%	76.6%	0.0%	3.0%	XX
Contracts	9.8%	21.1%	46.8%	0.0%	3.0%	XX
Other Civil	12.2%	15.8%	25.5%	0.0	12.1%	XX

DO YOU REGULARLY REFER SRLS TO ANY OF THE FOLLOWING? (CHECK ALL THAT APPLY)



Referral Table

	DC Judge	City Judge	JP Judge	Municipal	DC Clerk	COLJ Clerk
Montana Legal Services Assn.	36.8%	63.2%	70.8%	0.0%	52.0%	56.4%
Self-Help Law Center	78.9%	52.6%	66.7%	33.3%	68.0%	69.1%
Online resources/Montana Law Library	47.4%	63.2%	41.7%	33.33%	76.0%	63.6%
State or local bar association program	18.4%	0.0%	2.1%	0.0%	16.0%	0.0%
Organized local pro bono program	34.2%	5.3%	6.3%	0.0%	20.0%	3.6%
Social Service Agencies	5.3%	42.1%	20.8%	0.0%	8.0%	9.1%
Public Library	0.0%	26.3%	22.9%	0.0%	32.0%	29.1%
Old case files or similar case files	13.2%	0.0	2.1%	0.0%	4.0%	0.0%
Other	10.5% ¹⁰	5.3% ¹¹	4.2% ¹²	66.6% ¹³	4.0%	7.0% ¹⁴

¹⁰ Clerk of Court, Family Court Services, No referrals are made to SRLs

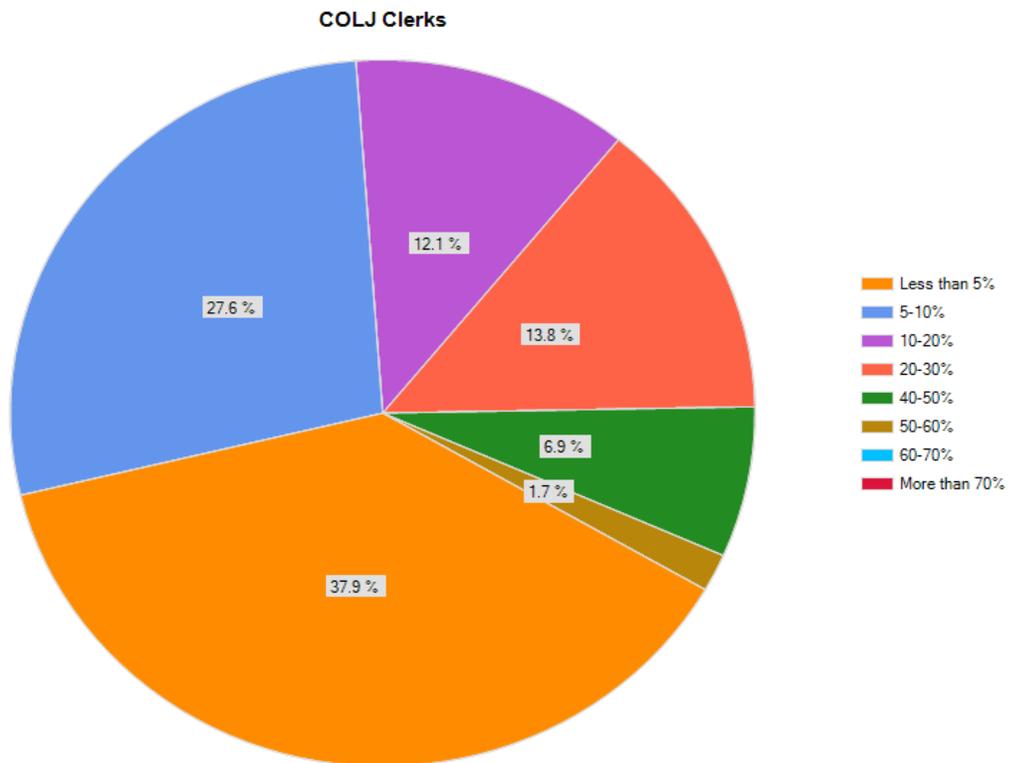
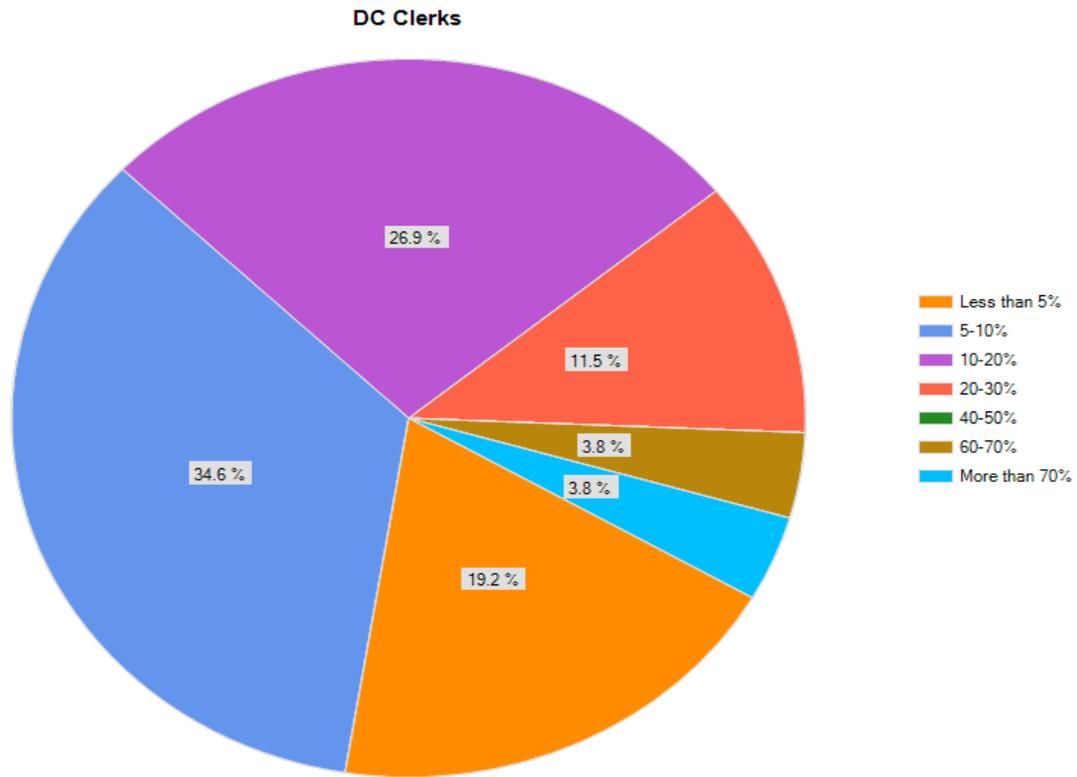
¹¹ Private attorney

¹² Clerk of Court, Public Defender

¹³ Crime victim services/victim advocates

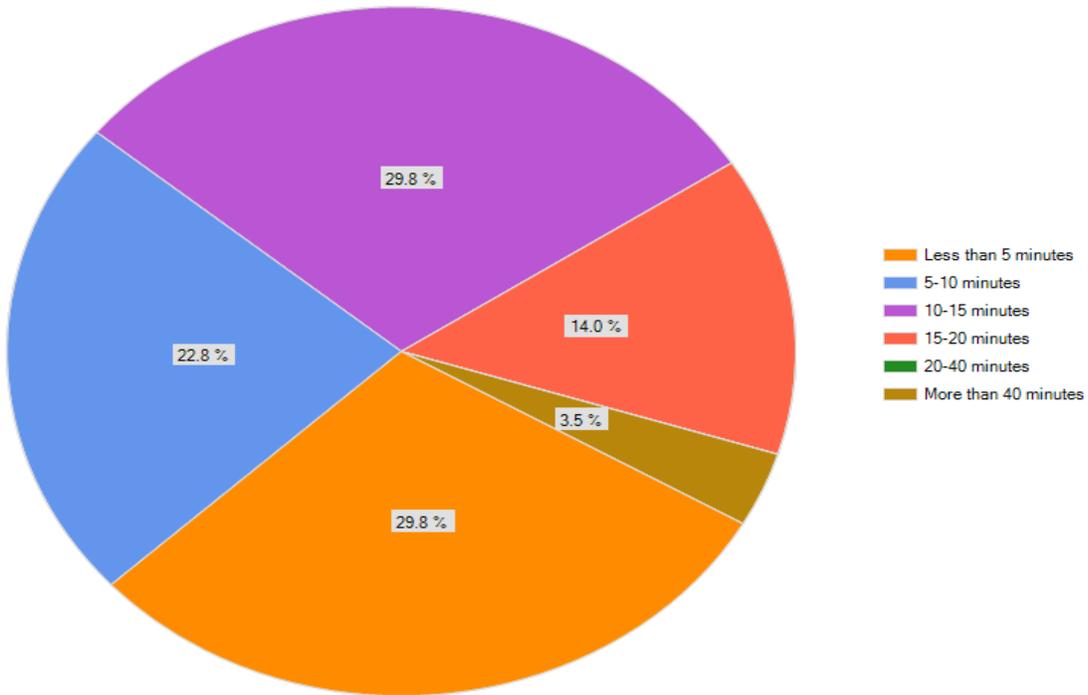
¹⁴ MT Landlord's Assn., Victim Services, Not allowed to refer to any services

ON AN AVERAGE DAY, ABOUT WHAT PERCENTAGE OF TIME DO YOU AND YOUR STAFF SPEND TO ANSWERING SRLS' QUESTIONS (NOT INCLUDING SIMPLE PROCEDURAL OR FILING QUESTIONS)?

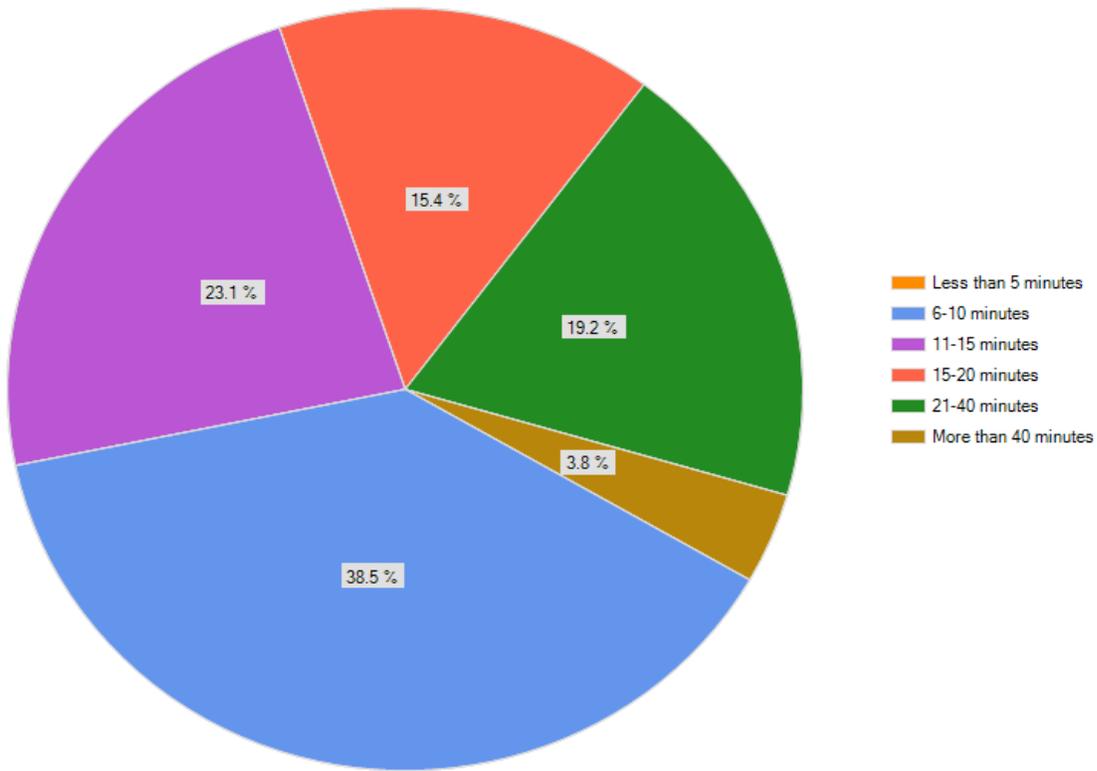


ON AVERAGE, WHAT AMOUNT OF TIME DO YOU OR YOUR STAFF SPEND WITH EACH SRL (NOT INCLUDING ASSISTING WITH STANDARD FILING PROCEDURES)?

COLJ Clerks



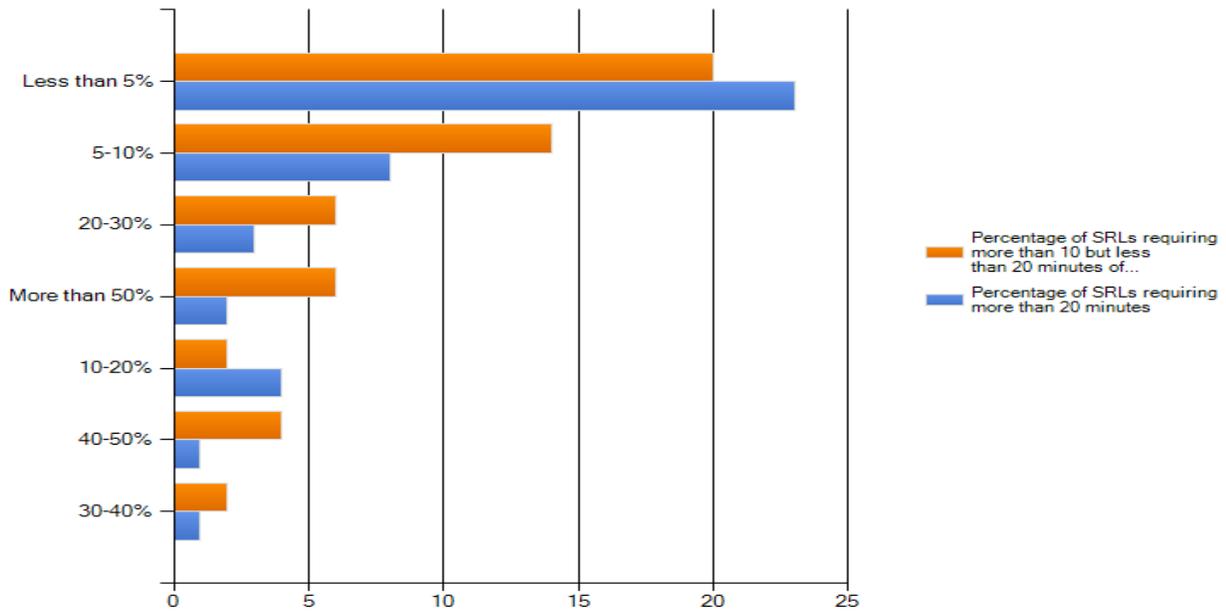
DC Clerks



ABOUT WHAT PERCENTAGE OF SRLS REQUIRE MORE THAN (10) MINUTES OF YOUR ASSISTANCE PER VISIT?

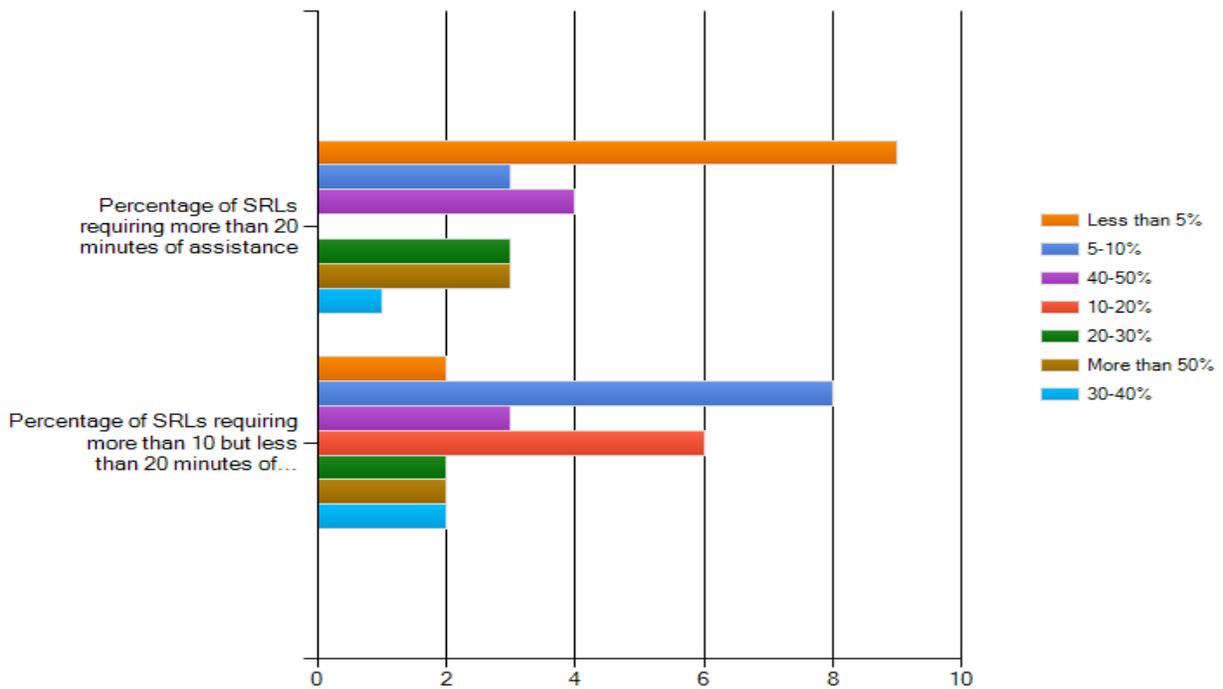
COLJ Clerks

About what percentage of SRLs require more than (10) minutes of your assistance per visit?

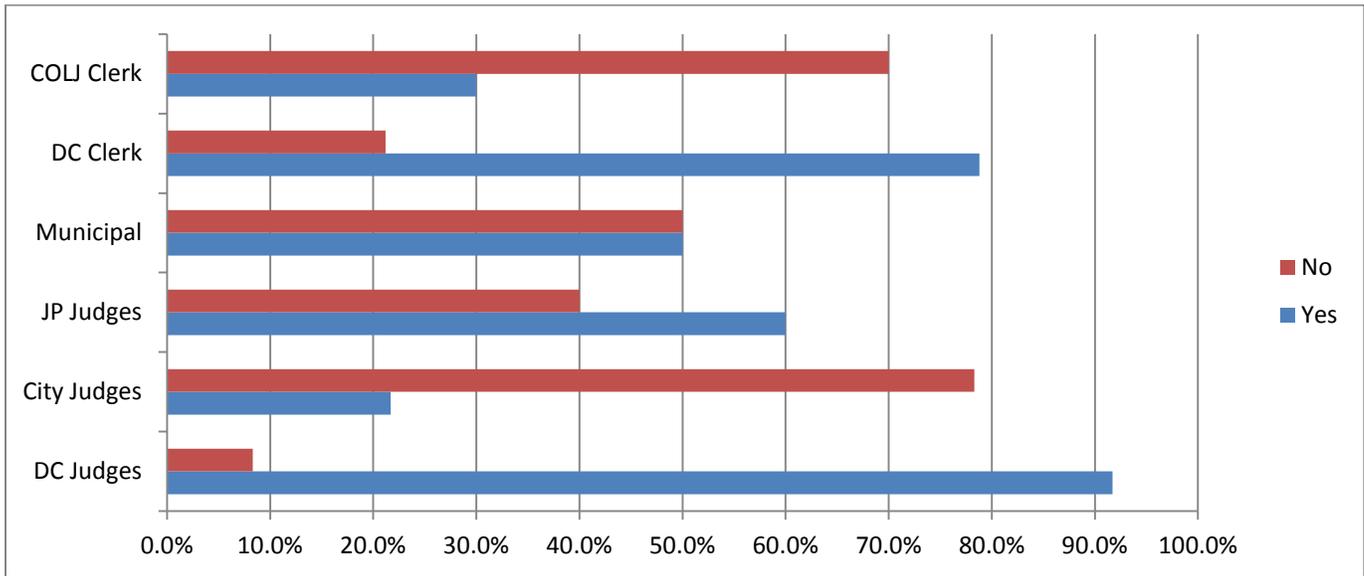


DC Clerks

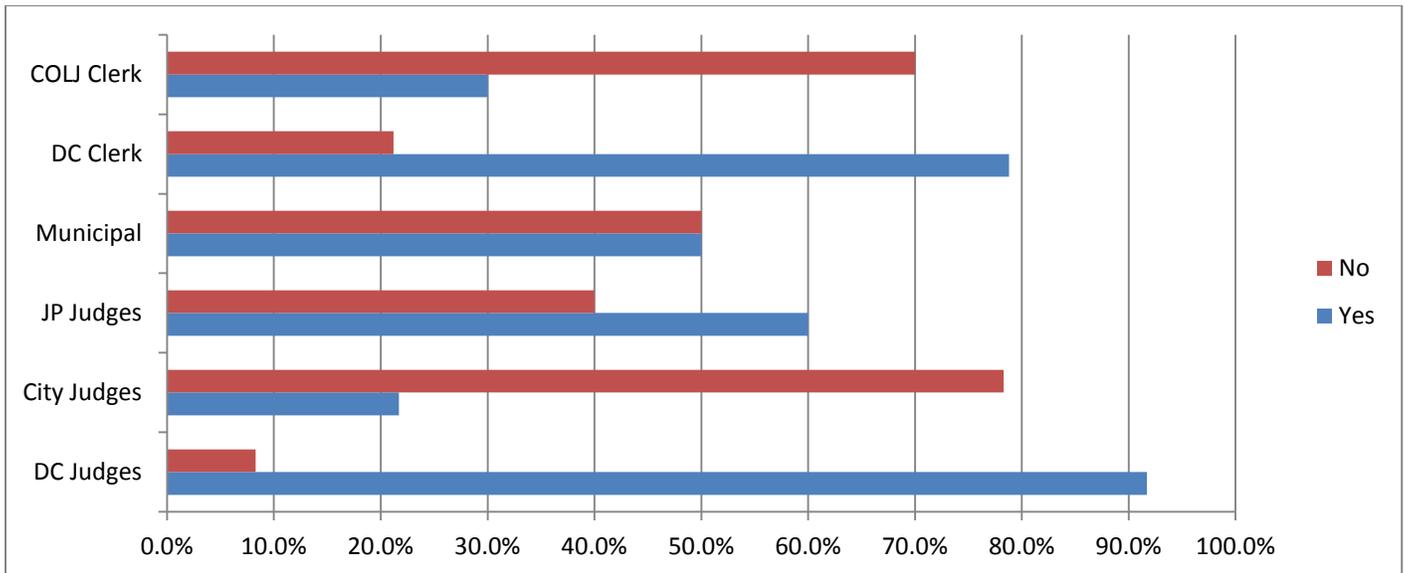
Please indicate what percentage of SRLs require your assistance for the times indicated.



HAVE YOU SEEN A CHANGE IN SRL DEMOGRAPHICS OR CIRCUMSTANCES LEADING TO SELF-REPRESENTATION OVER THE LAST FIVE YEARS?

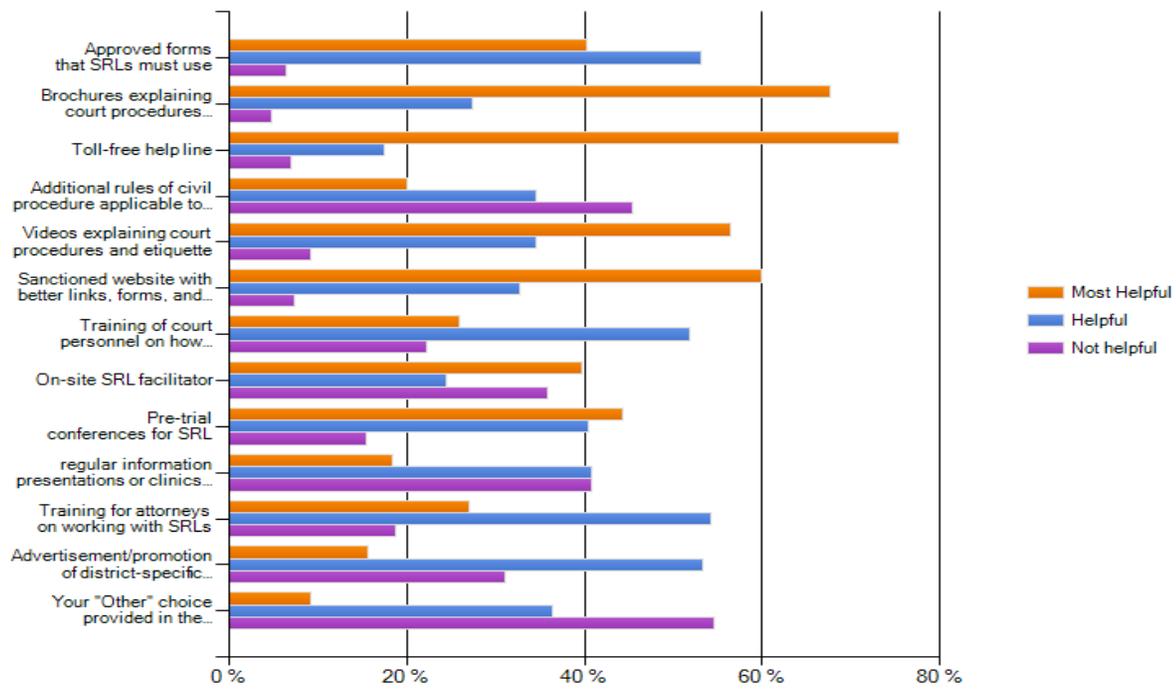


HAVE YOU SEEN AN INCREASE IN THE USE OF FORMS DEVELOPED AND APPROVED IN MONTANA?

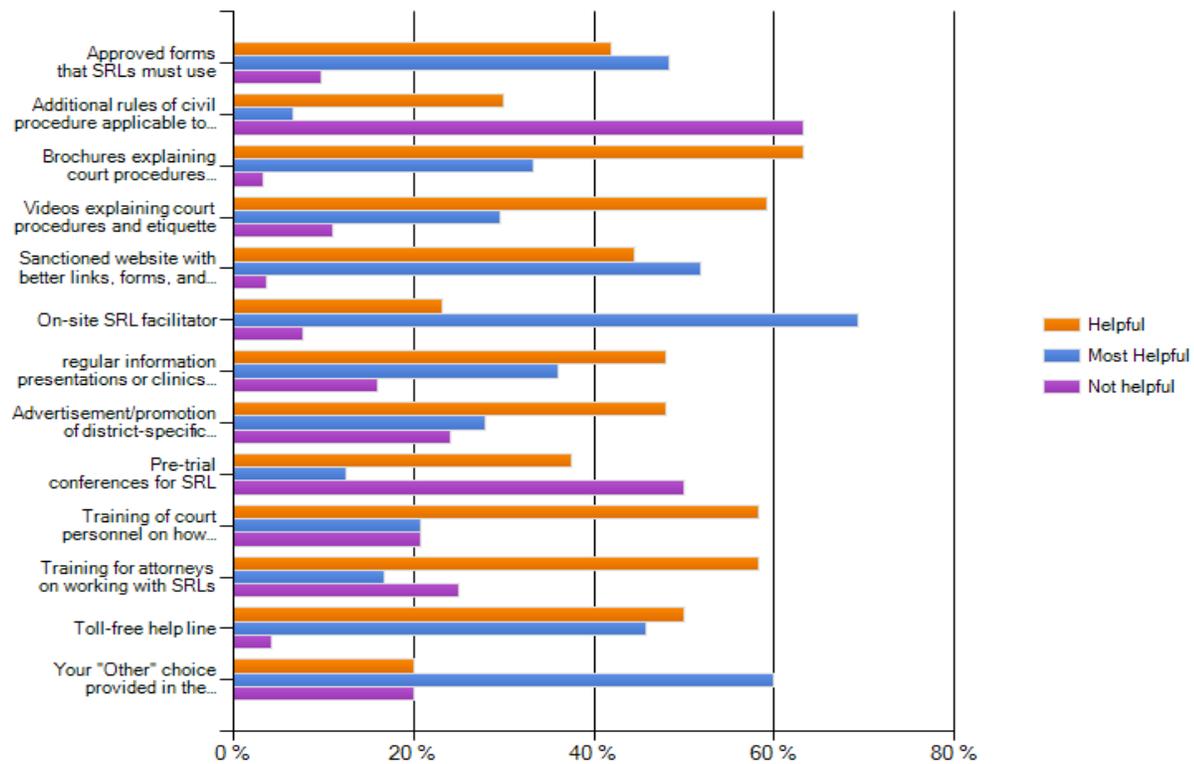


OF THE POSSIBLE SRL SERVICES LISTED ABOVE, TELL US HOW HELPFUL EACH WOULD BE:

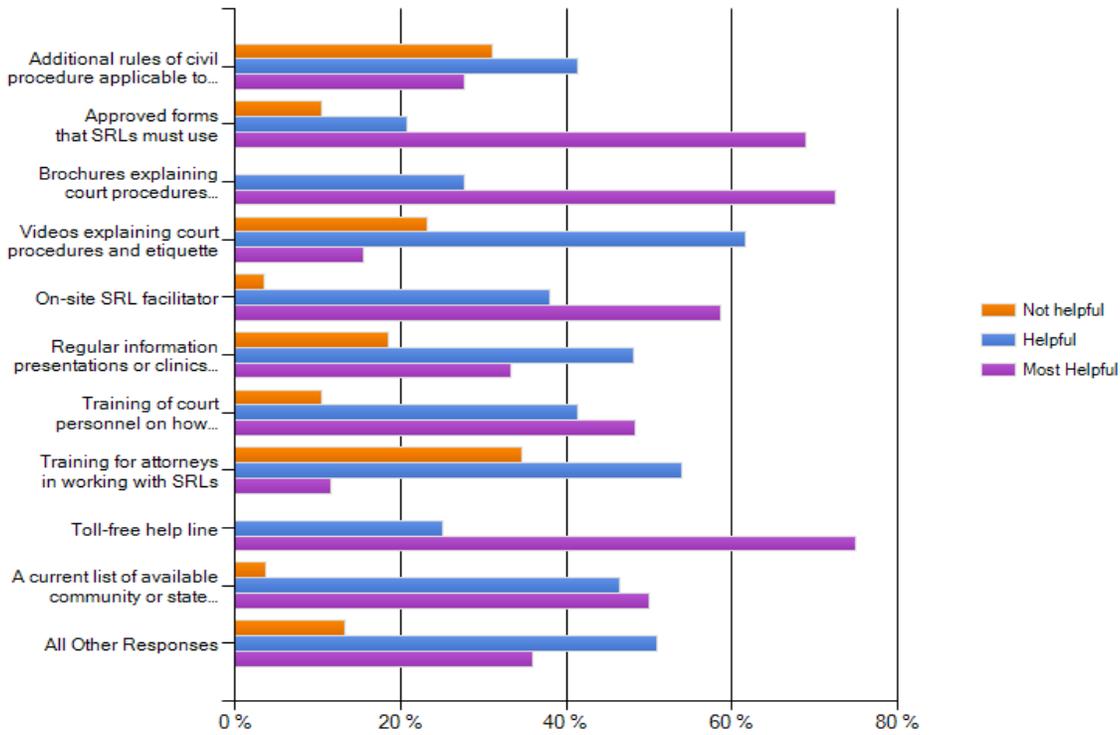
COLJ Judges



DC Judges



DC Clerk



COLJ Clerks

